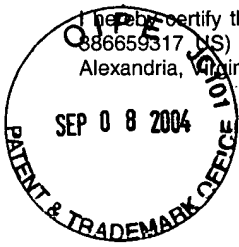


09-10-04

DHE

Certificate of Mailing (37 C.F.R. §1.10):



I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail (EV 886659317 US) in an envelope addressed to Mail Stop: PETITIONS, Commissioner For Patents, P O Box 1450, Alexandria, Virginia 22313-1450, on this 8th day of September, 2004.

Christina M. Compeube
Christina M. Compeube

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:
Sacha Ninkovic et al.

Serial No.: 10/754,171

Confirmation No.: 8481

Filed: January 9, 2004

For: TRICYCLIC COMPOUNDS PROTEIN
KANASE INHIBITORS FOR
ENHANCING THE EFFICACY OF
ANTI-NEOPLASTIC AGENTS AND
RADIATION THERAPY

Group Art Unit: 1625

Examiner: Not Yet Assigned

Attorney Docket No.: PC 25144A

Mail Stop PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

37 CFR 1.78(a)(6) PETITION

Sir:

In response to the dismissal of Applicant's "Corrective Filing Receipt" petition, the dismissal stated in the letter of the Office of Petitions mailed August 16, 2004 (copy attached), Applicants hereby petition under 37 CFR 1.78(a) (6) that an unintentionally delayed claim for priority be accepted.

In the preliminary amendment of this application dated June 23, 2004, Applicants filed the priority claim under 35 U.S.C. §119(e) by inserting the following new paragraph after the title of the application: "This application claims priority benefits under 35 U.S.C. §119(e) of a provisional application Serial No. 60/439,396". A copy of the preliminary amendment is attached.


The entire delay between the due date of the priority claim and the date that the priority claim was filed was unintentional. The priority claim was unintentionally left out when the application was filed on January 9, 2004 and such error was only discovered when the Filing Receipt of May 20, 2004 was reviewed. Applicants then filed a Preliminary Amendment asserting the priority claim, along with a request to correct the filing receipt. Upon notification by the Office of Petitions that the submission of the priority claim was untimely, Applicants have filed the present petition.

Please charge \$1,330.00, the fee set forth in 37 CFR §1.17(t) to Deposit Account No. 500329. (A duplicate of this sheet is enclosed.) If any other fees are due in connection with the filing this petitions, please charge all necessary fees to the deposit account.

Respectfully submitted,

Date: _____

Sep 8th, 2004



Ye Hua
Agent For Applicants
Registration No. 53,042

Agouron Pharmaceuticals, Inc./A Pfizer Company
Patent Department
10777 Science Center Drive
San Diego, California 92121
Phone: (858) 622-3020
Fax: (858) 678-8233



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AGOURON PHARMACEUTICALS, INC.
10350 NORTH TORREY PINES ROAD
LA JOLLA, CA 92037

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AUG 16 2004

OFFICE OF PETITIONS

In re Application of
Suzanne Benedict et al
Application No. 10/754,171
Filed: January 9, 2004
Attorney Docket No. PC25144A ✓

:
:
: DECISION ON PETITION
: UNDER 37 CFR 1.181
:

This is in response to the request for a "Corrective Filing Receipt," filed June 28, 2004, which is being treated as a petition under 37 CFR 1.181.

The petition is dismissed.

Petitioner requests a corrected updated Filing Receipt to include domestic priority data; i.e., priority benefits under 35 U.S.C. § 119(e) to provisional Application No. 60/439,396, filed January 9, 2003.

However, issuance of a corrected Filing Receipt is not appropriate herein at this time since the continuity claimed under 35 U.S.C. § 119(e) was not filed during the required time period as set out in 37 CFR 1.78(a)(5)(ii). Applicant may wish to consider filing a petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(6).

Additionally, the claim for priority to the provisional application under 35 U.S.C. § 119(e) must be included as an amendment to the first line of specification complying with 37 CFR 1.121 and in a separate communication (note 37 CFR 1.4(c)) or in an Application Data Sheet in accordance with 37 CFR 1.76(b)(6).

Further correspondence with respect to this matter should be addressed as follows:


By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306¹
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.


Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ Effective approximately September 28, 2004, the facsimile number will be 571-273-0025, which is when the Office of Petitions expects to move to the new quarters in Alexandria, Virginia. However, this number is not to be used for submitting formal papers, but merely is to be used for receiving courtesy and informal papers and petitions to withdraw from issue only. Courtesy and informal papers will not be made a part of the file record.

PC25144A
PRELIMINARY AMENDMENT

COPY



Certificate of Mailing (37 C.F.R. §1.8):

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on this 23rd day of June 2004.

s/

Rachel Potash

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:
SACHA NINKOVIC, ET AL.

Serial No.: 10/754,171

Confirmation No.: 8481

Filed: January 9, 2004

For: **TRICYCLIC COMPOUNDS PROTEIN
KINASE INHIBITORS FOR ENHANCING THE
EFFICACY OF ANTI-NEOPLASTIC AGENTS
AND RADIATION THERAPY**

Group Art Unit: 1625

Examiner: Not Yet Assigned

PRELIMINARY AMENDMENT

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Prior to examination, please amend the present application as follows:

- ☒ **Amendments to the Specification** begin on page 2 of this paper.
- ☐ **Amendments to the Claims** are reflected in the listing of claims, which begins on page 2 of this paper.
- ☐ **Amendments to the Drawings** begin on page ____ of this paper and include an attached replacement sheet.
- ☒ **Remarks** begin on page 3 of this paper.

Amendments to the Specification:

Please add the following new paragraph after the title:

This application claims priority benefits under 35 U.S.C. § 119(e) of a provisional application
Serial No. 60/439,396, filed January 9, 2003.

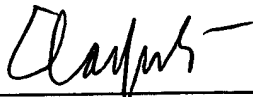
REMARKS

Applicants hereby submit domestic priority claim to provisional application serial number 60/439,396, filed January 9, 2003.

No fee is believed to be due at this time. If the applicant is in error, please charge all fees related to this filing to Deposit Account No. 500329.

Respectfully submitted,

Date: June 23rd '04



Elsa Djuardi, Ph.D.
Attorney For Applicants
Registration No. 45,963

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